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ABSTRACT

An approach to collective bargaining, in which structure and governance are carefully introduced into a contract, can act as a kind of restraint on both parties and minimize the scope of adversarial relationships to those matters for which there appears to be no alternative. By enlarging the role and responsibilities of faculty governance within the collective bargaining agreement, such alternatives are less necessary or sought after. When everything else is stripped away from the bargaining process, what is at stake is the relationship of the parties. Depending therefore on the set of assumptions about themselves and their institutions that each side brings to the table, the parties will get the relationship they want or deserve. (Author/MJM)

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Collective Bargaining in Higher Education

Donald E. Walters

When everything else is stripped away from the bargaining process what is at stake is the relationship of the parties. Depending, therefore, on the set of assumptions about themselves and their institution which each side brings to the table, the parties will get the relationship they want—or deserve.

The unionization of college faculties in recent years has dramatically escalated the sense of uncertainty about the future of American higher education, and this has symptomatically increased the level of anxiety among college administrators. No one really knows what unionism will do to the college campus by 1980, nor what the impact of collective bargaining will be on such cherished values of the academy as collegiality, faculty professionalism, and institutional autonomy. Will a national movement of faculty toward "collectivism" tend to create a plastic professoriate where uniformity leads inevitably to mediocrity? If so, the price of unionism would be a serious loss of self-commitment, self-motivation, and intellectual freedom which reflect the high standards and goals of today's academic profession. The mounting concern is not, therefore, without foundation. But neither is it without remedy.

There are two major current assumptions about the impact of collective bargaining on institutional life, campus life-styles, and academic traditions. They both reflect the same concern about an uncertain future marked by growing faculty unionization, but they approach that concern from different directions.

The first assumption is this: By broadening the scope of negotiations at the bargaining table to include faculty governance, the control over campus decision-making will shift from the faculty (or the faculty senate) to the union. This will

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create an adverse form of government, tend to polarize the faculty, students and administrators, and destroy collegiality as a viable system of relationships on the college campus.

The second assumption is very nearly opposite: The highest standards of faculty professionalism and the system of collegiality in American higher education will be preserved intact *only if* union and campus representatives can find creative ways to include faculty governance in collective bargaining without allowing the system of decision-making to become the exclusive property of either the union or the institution.

Most colleges and universities, both two year and four year, public and private, who are at the bargaining table today have adopted in some essential form the first assumption. It has become for them the basis for deciding both the scope and the strategy of negotiations. Thus it is understandable that these institutions should make every effort to narrow the definition of "conditions of employment"; this would effectively exclude from the collective bargaining contract any substantial provision dealing with the rights of faculty to participate in campus decision-making. The argument is made that such rights should be exercised within the traditional campus governance structure by means of the faculty organization existing for that purpose outside of and apart from the collective bargaining agreement. The hope is that the union and the senate will thereby peacefully coexist, each satisfied with its assigned role, and each respecting the borders and jurisdiction of the other.

Such a dualistic arrangement for allocating responsibility over faculty business is no doubt ideal. Indeed, so long as it will work for any given campus, it is a plausible solution. But strong challenges are even now being made as to whether it is likely to work for very long, first, because of the reasonable doubt that any campus can expect harmony between two vigorous organizations – one a senate, the other a certified bargaining agent – both purporting to represent the self-same interests of the self-same faculty. At some point – almost certainly at the time of a major grievance – the senate and the union will inevitably square off with each other on the issue of which organization really represents the interests of faculty to the trustees and the administration; and, second, because the definition of "conditions of employment" as statutory language has not yet seen its final legal test. Future judicial constructions as well as statutory amendments may well attempt to expand the definition of "condition of employment," especially for college faculty, to include "governance" – that is, to include as matters for negotiations the right of faculty to participate in the processes of decision-making. On those campuses, therefore, which have or will have both a unionized faculty and an active faculty senate

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it will become increasingly difficult for the administration to grant recognition to and deal effectively with a faculty senate concerning decisions which affect not only the pay, promotion, tenure and workload of faculty but which affect admissions, curriculum and long-range planning as well.

In view of this, the second assumption that "campus governance" forms the creative nucleus of a new approach to collective bargaining deserves serious attention by faculty and administrators alike; for, arguably, it constitutes a more promising starting point for harmonizing the values and traditions of the campus with those of the union. One cannot in any event dodge the issue of governance in collective bargaining; the true challenge for higher education is to find new and positive ways to tailor the collective bargaining experience to fit the special needs of colleges and universities – needs which are demonstrably different from other already unionized sectors whether firemen, or policemen, or elementary-secondary school teachers. Hence, it is quite possible that the process of both collective bargaining and the contract itself will become a major new medium for integrating traditional academic and collegial values with the felt needs of unionized faculties. If faculties are to prevent their re-classification as mere employees, if faculty professionalism and independence is to be preserved where it exists and sought after where it does not, if institutional autonomy is not to be eroded, and if college communities – faculty, students, and administrators alike – are to emerge from the experience of unionization and collective bargaining as colleagues and not as adversaries, then campus governance must become a matter of collective bargaining; for properly negotiated it becomes a potent force for integration on campus.

Nevertheless, the negotiation of an entire system of campus governance into a collective bargaining agreement is not without risks. It needs to be undertaken with extreme care, and requires ultimate agreement between the parties on certain basic principles. The recent experience of the State Colleges in Massachusetts suggests, however, that such risks can be minimized provided both sides agree that the governance machinery so negotiated is not the property or exclusive business of either the union or the administration, but conceptually belongs to the institution – to the broader community consisting of faculty, students and administrators.

The Massachusetts State College experience has indeed already begun to provide evidence that both the collective bargaining process and the final contract can and should be viewed as flexible and not fixed forms; and that it is quite possible for both the college and the union to put aside the old precedents from elementary-secondary and other experiences long enough to explore new forms that may more perfectly fit the needs of higher education.

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In Massachusetts, faculty unionization occurred relatively early among institutions in the Northeast region of the United States.

There are fourteen public four-year colleges and universities in Massachusetts: The University of Massachusetts, Southeastern Massachusetts University, Lowell Technological Institute, and the eleven State Colleges under the jurisdiction of a single lay governing board. The first of these eleven four-year institutions to be organized was Boston State College when its faculty elected the AFT as its exclusive bargaining agent in November, 1969. Since then four more of the State Colleges have elected the AFT and three more have elected the Massachusetts Teachers Association, an affiliate of the NEA, to represent them at the collective bargaining table. On April 3, 1972, the first collective bargaining agreement with the Faculty Federation at Boston State College was signed, and on September 28, 1972, the second was signed with the Faculty Federation at Worcester State College.

Shortly after negotiations began in 1969, the Massachusetts State College Board of Trustees and its representatives opened the way for negotiating contractual provisions affecting campus governance. The Board proposed to the union and faculty representatives at the bargaining table that ways be sought in the contract to secure for all faculty – as well as students – the status of a collegial partnership with administrators in the affairs of their institution. This proposal was based, however, on five key conditions which over time the parties at the bargaining table were able to accept as working principles:

First, that the process and machinery for governance was to exist independent of the union local on campus, and outside its exclusive dominion or control. In short, the campus governance machinery was in no way to be considered a creature of the union local *qua* union local as, for example, the union's own Executive Board and Committees would be.

Second, that each and every member of the unit represented by the union (which included all faculty at the ranks of instructor, assistant professor, associate professor, full professor, all librarians and all department chairmen) would be entitled to participate in the negotiated system of campus governance (i.e., vote in elections, and sit on committees) whether he was a dues paying member of the local or not. The establishment of these first two principles insured that control over the governance processes themselves would not be shifted from the general faculty, or from the community as a whole, to the union *qua* union.

The third principle established by agreement between the parties was that the system of campus governance negotiated in the contract, although advisory in form and

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in effect, would at all times be recognized for its integrity by the administration.

The fourth principle established that the form of the governance structure would be tri-partite and would equally include faculty, students and administrators in the contractual process of decision-making.

The fifth principle established an exception to the fourth by recognizing the special and dominant interest of faculty in (a) matters affecting their evaluation for re-appointment, promotion and tenure, (b) matters affecting their workload, and (c) the grievance procedures established by the contract. These three areas, and the decision-making processes assigned to them in the contract, were set forth in the agreement in separate articles; thus, a dominant role was assigned to faculty over matters of special faculty interest.

Consequently, the collective bargaining agreement between the Board of Trustees and the Faculty Federation, both at Boston State College and at Worcester State College creates *by contract* what is essentially a constitutional form of tri-partite campus governance. These contracts are, as a result, process- and not provision-oriented, and they are open-ended enough to permit faculty, students and administrators to continue to make important educational decisions on an ad-hoc basis as new needs and opportunities arise at the institution during the two-year term of the agreement.

In the Worcester State College agreement this commitment to freedom of decision-making finds expression in a governance structure which consists of the following elements.

a) *An All-College Council* comprising 18 members: six faculty, six students, and six administrators. The contract provides that two of the six faculty seats are to be held by the President and Vice President of the Faculty Federation, respectively; and the other four are to be held by faculty members elected at large (regardless of their dues paying status in the union) from each academic rank from instructor to full professor, respectively. Two of the six student seats are to be held by the President and Vice President of the Student Government Association, respectively; the other four are to be students elected at large from each class from freshman to senior, respectively. The six administrators are appointed by and serve at the discretion of the President of the College.

The authority of the All-College Council is general. The contract emphasizes the Council's authority to play an innovative role in educational leadership; it is expected to make recommendations to the President on any matters affecting the needs and interests of the institution.

b) *Four Standing Committees* of the All-College Council dealing respectively with (1) Undergraduate Curriculum, (2) Graduate Educa-

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tion, (3) Admissions, and (4) College Development (which incorporates responsibility for the areas of student life, consultation on the college budget, and the development of the college calendar). The faculty and student membership on each of these four Committees is numerically equal, and all such representatives are elected from their constituency in campus-wide elections. The contract directs each Committee to undertake study and research, and to make appropriate recommendations directly to the All-College Council for final review by the President of the College.

In addition, the contract at Worcester State College sets out in separate articles provisions for (1) the annual evaluation of faculty, (2) the adjudication of faculty grievances and (3) the assignment of faculty workload. The contract requires the involvement of students in the area of faculty evaluation, but limits the focus of student evaluation to the teaching performance of faculty. Great effort was made as well to develop, by contract, provisions which guarantee to faculty the highest standards of due process in such key areas as evaluation and grievances.

The analysis is not complete, however, without exploring whether this type of "structure bargaining" has substantial application for other colleges and universities across the country. Specifically, in what way does the process-oriented governance system within the Worcester and Boston State contracts tend to stabilize the campus, preserve collegiality, insure institutional autonomy, or affirm the rights and responsibilities of faculty members *qua* professionals?

• *First* – It tends to stabilize the campus by expressly consolidating the common interests of the union and the faculty senate in representing the faculty. The mechanism for consolidation is governance. By contract, a single set of integrating governance procedures are established through and by which the interests of all faculty may be addressed and satisfied. The potential conflict of interest between senate and union is thereby dissolved, and with it the potential for open warfare. The contractual commitment to tri-partite equality among faculty, students and administrators on campus governance also tends to secure a measure of campus stability. The contract refuses to isolate the governance machinery from any of these three principal constituencies. Rather it moves the campus community as a whole toward unity, by implicitly removing the divisiveness that can lead to a polarization of the entire institution.

• *Second* – It tends to *preserve collegiality* by refusing to give any cognizance in the contract to the kind of adversary relationship which has been an essential quality of collective bargaining historically. Rather, the negotiated governance processes in the contract explicitly

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recognize that the essential goals and interests of faculty and administration are common goals and interests, not disparate, and that the accomplishments of those goals and the satisfaction of those interests is enhanced if faculty and administrators pull their "oars" in the same direction.

• *Third* – It tends to *insure institutional autonomy* by allowing decisions affecting the college's future to be made on the merits and at the time during the contract period when such decisions may be required. The contract makes no commitment in advance that would in any way prevent faculty, students, and administrators from dealing effectively with an unanticipated institutional need or opportunity *at the time it occurs.*

• *Fourth* – It tends to *affirm the professional status of faculty* by refusing to reduce their relationship to the institution to that of a mere employee. Faculty are, of course, employees, but their role and contribution to their institution, to their students and to their own scholarship carry them far beyond the limiting concept of employee. All provisions of the contract dealing with faculty roles – their rights as well as their responsibilities – begin implicitly or explicitly with the assumption that no outer limits have been placed on the commitment or the contribution of faculty to the college; no provision of the contract in any way seeks to quantify the work or the workload of faculty. On the contrary, the contractual expectation is that faculty shall be largely self-initiating and self-sustaining in their teaching, their scholarship, and their service on and off the campus. Faculty, unlike most other employees, come to their profession as owners of the "tools of production." Both the Worcester and Boston State contract take this unique fact into account in accepting and clarifying the role of faculty as professional.

What is clearly being proposed, therefore, is that an approach to collective bargaining, in which structure and governance are carefully introduced into a contract, can act as a kind of restraint upon both parties, and minimize the scope of adversarial relationships to those matters for which there appears to be no alternative. By enlarging the role and responsibilities of faculty governance within the collective bargaining agreement, such alternatives are less necessary or sought after.

But what is at stake for higher education in the collective bargaining endeavor is much more than even the contract. When everything else is stripped away from the bargaining process what is at stake is the relationship of the parties. Depending, therefore, on the set of assumptions about themselves and their institution which each side brings to the table, the parties will get the relationship they want – or deserve.

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